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DECLARATION FOR PATENT APPLICATION

As the below-named inventors, we hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHOD FOR TREATING AN HIV-INFECTED INDIVIDUAL BY COMBINING IMMUNIZATION WITH STRUCTURED INTERRUPTION OF ANTI-RETOVIRAL TREATMENT, the specification of which

\_\_\_\_\_ is attached hereto as Attorney Docket No. \_\_\_\_\_.

XX was filed on January 24, 2002, as Application Serial No. 10/056,420 (Attorney Docket No. P-IM 5158)

and was amended on (or amended through) \_\_\_\_\_.  
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment(s) referred to above.

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to myself to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56.

Under Sec. 1.56, information is material to patentability when it is not cumulative to information already of

Inventors: Moss and Carlo  
Serial No.: 10/056,420  
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record or being made of record in the application, and (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or (2) It refutes, or is inconsistent with, a position the applicant takes in: (a) Opposing an argument of unpatentability relied on by the U.S. Patent and Trademark Office, or (b) Asserting an argument of patentability.

I hereby claim the benefit under Title 35, United States Code, § 119(e) of the United States provisional application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 that became available between the filing date of the prior application(s) listed below and the filing date of this non-provisional application:

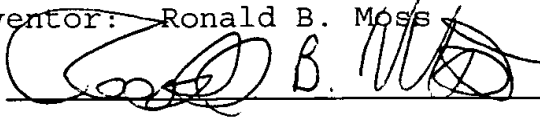
<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
60/264,476	January 26, 2001	Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

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United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Ronald B. Moss

Inventor's signature: 

Date: 03-06-02

Residence: San Diego, California USA

Citizenship: United States of America

Mailing Address: 5021 Manor Ridge Lane  
San Diego, California 92130

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Full name of second inventor: Dennis J. Carlo

Inventor's signature: 

Date: 03-05-02

Residence: Rancho Santa Fe, California USA

Citizenship: United States of America

Mailing Address: 4466 Los Pinos  
Rancho Santa Fe, California 92067



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company, corporation, joint venture, association, trust or cooperative. If the concern is a joint venture, participation by foreign business entities may not be more than 49%. 13 C.F.R. § 121.105.

The "number of employees" is the average number of employees, including the employees of its domestic and foreign affiliates, based on numbers of employees for each of the pay periods for the preceding completed 12 calendar months.

"Employees" includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number of employees for each of the pay periods it has been in business. 13 C.F.R. § 121.106.

Concerns are "affiliates" of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13 C.F.R. § 121.103(a).

### **(3) Nonprofit organization:**

A university or other institution of higher education located in any country. § 1.27(a)(3)(ii)(A).

An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B), (D).

A nonprofit scientific or educational organization qualified under a nonprofit organization statute of a U.S. state. Also included are such organizations located in a foreign country that

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would qualify if it were located in this country.  
§ 1.27(a)(3)(ii)(C), (D).

Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status. § 1.27(a)(4).

I hereby assert that I am empowered to sign on behalf of the party identified below ("Party"). Persons empowered to sign include an inventor him- or herself or an authorized officer of the assignee, where the assignee has at least an undivided part interest in the application or patent. § 1.27(c)(2).

I have made a determination of the Party's entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

I hereby assert that the Party has not assigned, granted, conveyed or licensed--and is under no obligation under contract or law to do so--any rights in the invention to any other party that would not qualify as a Small Entity. If the rights in the invention held by the Party are not exclusive, each party having rights in the invention is listed below:

NONE

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Separate assertions of Small Entity Status should be obtained from each party having rights to the invention.

I hereby assert that the Party is entitled to be accorded Small Entity Status by the USPTO for the application or patent identified above. § 1.27(c)(1).

I understand that Small Entity Status must be newly determined when the issue fee and each maintenance fee is due. If there is any change resulting in loss of entitlement to Small Entity Status, I acknowledge the duty to file a notification to the USPTO in this application or patent before or upon paying the fee. § 1.27(g).

I understand that Small Entity Status must be separately established in any related application, including continuation, divisional, continuation-in-part, continued prosecution application or reissue application. § 1.27(c)(4).



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I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of the application or jeopardize the validity and enforceability of any resulting patent. § 1.27(h).

03-05-02

Date

Dennis J. Carlo

Name: Dennis J. Carlo, PhD

Title: President, Chief Executive  
officer

The Immune Response Corporation  
5935 Darwin Court  
Carlsbad, California 92008

COPY OF PAPERS  
ORIGINALLY FILED



ONE EXECUTED POWER OF ATTORNEY  
(2 pages)  
Attorney Docket No.: P-IM 5158  
Serial No.: 10/056,420

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Attention: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231, on June 4, 2002.

By Melanie K. Webster  
Melanie K. Webster, Reg. No. 45,201

June 4, 2002  
Date of Signature



# 3

POWER OF ATTORNEY FOR PATENT APPLICATION BY ASSIGNEE

Assignee The Immune Response Corporation is the owner of the entire right, title and interest of U.S. Patent Application Serial No. 10/056,420, filed on January 24, 2002, as attorney docket number P-IM 5158, and entitled METHOD FOR TREATING AN HIV-INFECTED INDIVIDUAL BY COMBINING IMMUNIZATION WITH STRUCTURED INTERRUPTION OF ANTI-RETROVIRAL TREATMENT, and any subsequently filed divisional, continuation, continuation-in-part or reissue application, including international and foreign applications claiming priority thereto.

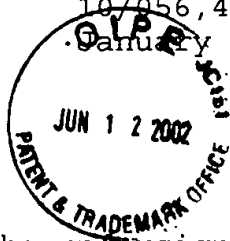
The Assignee hereby appoints the following attorneys to prosecute these applications and to transact all related business in the United States Patent and Trademark Office and any international and foreign patent offices:

CATHRYN CAMPBELL, Registration No. 31,815; DAVID A. GAY, Registration No. 39,200; CALVIN A. FAN, Registration No. 38,444; ANDREA L. GASHLER, Registration No. 41,029; JAMES J. WONG, Registration No. 34,949; DEBORAH L. CADENA, Registration No. 44,048; MELANIE K. WEBSTER, Registration No. 45,201; ASTRID R. SPAIN, Registration No. 47,956; and KIMBERLY J. PRIOR, Registration No. 41,483.

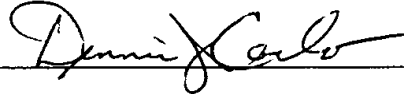
Please direct all telephone calls to Cathryn Campbell at (858) 535-9001 and address all correspondence to:

CATHRYN CAMPBELL  
CAMPBELL & FLORES LLP  
4370 La Jolla Village Drive  
7<sup>th</sup> Floor  
San Diego, California 92122  
USPTO CUSTOMER NO. 23601

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The undersigned is authorized to sign on behalf of the  
Assignee.

Signature:	<u></u>
Name (typed):	<u>Dennis J. Carlo, Ph.D.</u>
Title:	<u>President, Chief Executive Officer</u>
Assignee:	<u>The Immune Response Corporation</u>
Date:	<u>March 5, 2002</u>

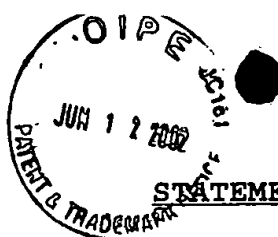


ONE EXECUTED STATEMENT UNDER 37  
C.F.R. § 3.73 (b) (5 pages)  
Attorney Docket No.: P-IM 5158  
Serial No.: 10/056,420

I hereby certify that this correspondence is being deposited with  
the United States Postal Service as first class mail in an  
envelope addressed to: Attention: Box Missing Parts, Commissioner  
for Patents, Washington, D.C. 20231, on June 4, 2002.

By Melanie K. Webster  
Melanie K. Webster, Reg. No. 45,201

June 4, 2002  
Date of Signature



STATEMENT UNDER 37 C.F.R. § 3.73(b)

Title of Application: METHOD FOR TREATING AN HIV-INFECTED  
INDIVIDUAL BY COMBINING IMMUNIZATION  
WITH STRUCTURED INTERRUPTION OF ANTI-  
RETROVIRAL TREATMENT

Application Ser. No.: 10/056,420

Filed: January 24, 2002

Inventor(s): Moss and Carlo

Attorney Docket No.: P-IM 5158

The Immune Response Corporation, a corporation, states that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventors of the application. A copy of the executed assignment, submitted for recording, is attached hereto as documentary evidence of the chain of title to the assignee.

The undersigned is empowered to sign this statement on behalf of the assignee.

Date: 3-5-02

Signature: 

Name: Dennis J. Carlo, Ph.D.

Title: President, chief Executive  
officer

JOINT

ASSIGNMENT

This Assignment is made by Ronald B. Moss of San Diego, California and Dennis J. Carlo, of Rancho Santa Fe, California, Assignors, to The Immune Response Corporation, Assignee, having a place of business at 5935 Darwin Court, Carlsbad, California 92008.

WHEREAS, Assignors have invented a new and useful METHOD FOR TREATING AN HIV-INFECTED INDIVIDUAL BY COMBINING IMMUNIZATION WITH STRUCTURED INTERRUPTION OF ANTI-RETROVIRAL TREATMENT for which an application for United States Letters Patent was filed on January 24, 2002, in the United States Patent and Trademark Office, bearing Serial No. 10/056,420, and identified as Attorney Docket No: P-IM 5158;

WHEREAS, Assignors believe themselves to be the original inventors of the invention disclosed and claimed in said application for Letters Patent; and

WHEREAS, the parties desire to have a recordable instrument assigning the entire right, title and interest in and to said invention, said application and any Letters Patent that may be granted for said invention in the United States and throughout the world;

NOW, THEREFORE, in accordance with the obligations to assign the invention and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignors sell, assign, and transfer to Assignee, the entire right, title, and interest in and to said invention, said

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application, any applications entitled to benefit of priority to said application under Title 35, United States Code, Sections 120, 121 or 251, which include divisionals, continuations and reissues, and any Letters Patent that may be granted on said invention or these applications in the United States and throughout the world, including the right to file foreign applications directly in the name of the Assignee and to claim for any such foreign applications any priority rights to which such applications are entitled under international conventions, treaties, or otherwise.

Assignors agree that, upon request and without further compensation, but at no expense to Assignors, they and their legal representatives and assigns will do all lawful acts, including the execution of papers and the giving of testimony, that may be necessary or desirable for obtaining, sustaining, reissuing, or enforcing Letters Patent in the United States and throughout the world for said invention, and for perfecting, recording, or maintaining the title of Assignee, its successors and assigns, to said invention, said application, and any Letters Patent granted for said invention in the United States and throughout the world.

Assignors represent and warrant that they have not granted and will not grant to others any rights inconsistent with the rights granted herein.

Assignors authorize and request that any United States or foreign Letters Patent granted for said invention, whether on

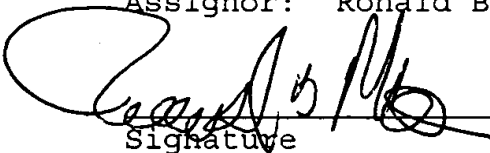


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said application or on any subsequently filed divisional, continuation or reissue application, be issued to Assignee, its successors and assigns, as the assignee of the entire interest in said invention.

IN WITNESS WHEREOF, Assignors have executed this Assignment on the date(s) provided below.

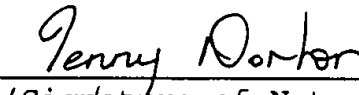
Assignor: Ronald B. Moss

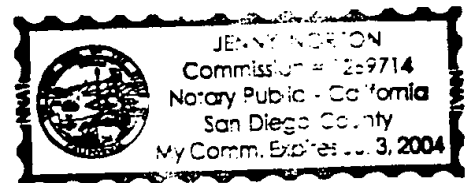
  
Signature Date 03-06-02

STATE OF California )  
COUNTY OF San Diego )

On 03-06-02, before me, Jenny Norton, Notary Public, personally appeared Ronald B. Moss,  
☒ personally known to me - OR -        proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS by hand and official seal.

  
(Signature of Notary)



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Serial No.: 10/056,420  
Filed: January 24, 2002  
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Assignor: Dennis J. Carlo

Dennis J. Carlo  
Signature Date

STATE OF California )  
COUNTY OF San Diego )

On March 5, 2002, before me, Jenny Norton, Notary Public  
personally appeared Dennis J. Carlo,  
✓ personally known to me - OR -     proved to me on the basis  
of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that  
he/~~she/they~~ executed the same in his/~~her/their~~ authorized  
capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the  
instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

WITNESS by hand and official seal.

Jenny Norton  
(Signature of Notary)

